

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OLIVER NOLASCO-CRUZ et al.,

Defendants.

3:15-cr-00072-RCJ-VPC-4

**ORDER**

Defendant Oliver Nolasco-Cruz pled guilty to the single count against him in the Superseding Information for conspiracy to possess heroin with intent to distribute. On May 10, 2016, the Court sentenced Defendant to 57 months imprisonment, to be followed by four years of supervised release. Defendant appealed his sentence but voluntarily dismissed his appeal before briefing. Based on the transcript of the sentencing hearing, Defendant presumably intended to appeal the application of a two-level enhancement for maintaining a premise for the purpose of illegal drug distribution under U.S.S.G. § 2D1.1(b)(12). Defendant explicitly disclaimed any other objections to the pre-sentence report.

Defendant has asked the Court to reduce his sentence under Amendment 782 to the U.S. Sentencing Guidelines, which reduced the base offense levels for given quantities of drugs.<sup>1</sup> Defendant was found to have been responsible for 804 grams of heroin. That quantity of heroin

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<sup>1</sup>The Court subsequently appointed the Federal Public Defender to represent Defendant as to the motion and gave counsel until January 12, 2017 to file an appropriate motion. Counsel has filed a motion to withdraw, noting no basis for such a motion.

1 results in a base offense level of 28 under Amendment 782's adjustment to the drug quantity  
2 tables. *See* U.S.S.G. § 2D1.1(c)(6) (2014). Amendment 782 went into effect on November 1,  
3 2014 when the Guidelines version of that date was issued, but the Amendment may be applied  
4 retroactively to reduce sentences pronounced before November 1, 2014. Retroactive application  
5 of the Amendment is not an issue here, however, because Defendant was sentenced after it went  
6 into effect. The record makes clear that Defendant was subjected to a base offense level of 28,  
7 which was correct. *See* U.S.S.G. § 2D1.1(c)(6) (2015).

8 **CONCLUSION**

9 IT IS HEREBY ORDERED that the Motion for a Sentence Reduction (ECF No. 157) is  
10 DENIED.

11 IT IS FURTHER ORDERED that the Motion to Withdraw (ECF No. 169) is GRANTED.

12 IT IS SO ORDERED.

13 DATED: This 17<sup>th</sup> day of February, 2017.

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17 ROBERT C. JONES  
18 United States District Judge  
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